

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-57874; File No. PCAOB-2008-02)**

**May 27, 2008**

**Public Company Accounting Oversight Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying Implementation Schedule of Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles**

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), notice is hereby given that on April 22, 2008, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "SEC" or "Commission") the proposed rule change described in Items I and II below, which items have been prepared by the Board. The PCAOB has designated the proposed rule change as "constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule" under Section 19(b)(3)(A)(i) of the Securities Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the Act) and Rule 19b-4(f)(1) thereunder, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Board's Statement of the Terms of Substance of the Proposed Rule Change**

The PCAOB is filing with the SEC an adjustment of the implementation schedule for Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles. Specifically the Board will not apply Rule 3523 to tax services provided on or before December 31, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins. The PCAOB is not proposing any textual changes to the Rules of the PCAOB by this filing.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule and discussed any comments it received on the proposed rule. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

On July 26, 2005, the PCAOB adopted certain rules related to registered public accounting firms' provision of tax services to public company audit clients. As part of this rulemaking, the Board adopted Rule 3523, which provides that a registered firm, subject to certain exceptions, is not independent of an audit client if the firm, or an affiliate of the firm, provides tax services during the audit and professional engagement period to a person in, or an immediate family member of a person in, a financial reporting oversight role at an audit client. This rule was intended to address concerns related to auditor independence when auditors provide personal tax services to individuals who play a direct role in preparing the financial statements of public company audit clients. Rule 3523 was approved by the SEC on April 19, 2006.

Consistent with the SEC's independence rules,<sup>1/</sup> the phrase "audit and professional engagement period" is defined to include two discrete periods of time. The "audit period" is the

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<sup>1/</sup> 17 CFR 210.2-01(f)(5).

period covered by any financial statements being audited or reviewed.<sup>2/</sup> The "professional engagement period" is the period beginning when the firm either signs the initial engagement letter or begins audit procedures, whichever is earlier, and ends when either the company or the firm notifies the SEC that the company is no longer that firm's audit client.<sup>3/</sup>

On April 3, 2007, the Board issued a concept release to solicit comment about the possible effect on a firm's independence of providing tax services to a person covered by Rule 3523 during the portion of the audit period that precedes the beginning of the professional engagement period and other practical consequences of applying the restrictions imposed by Rule 3523 to that portion of the audit period.<sup>4/</sup> The Board also adjusted the implementation schedule for Rule 3523, as it applies to tax services provided during the period subject to audit but before the professional engagement period.<sup>5/</sup>

On July 24, 2007, the Board proposed an amendment to Rule 3523 to exclude the portion of the audit period that precedes the beginning of the professional engagement period, as well as a new ethics and independence rule regarding communication with audit committees, and further adjusted the implementation schedule for Rule 3523 to allow sufficient time for consideration of

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<sup>2/</sup> Rule 3501(a)(iii)(1).

<sup>3/</sup> Rule 3501(a)(iii)(2).

<sup>4/</sup> See PCAOB Release No. 2007-002 (Apr. 3, 2007).

<sup>5/</sup> See id., at 7. Specifically, the Board stated that it would not apply Rule 3523 to tax services provided on or before July 31, 2007, when those services are provided during the audit period and are completed before the professional engagement period begins.

commenters' views.<sup>6/</sup> After considering commenters' views, the Board adopted the amendment on April 22, 2008.<sup>7/</sup>

The Board has determined to further adjust the implementation schedule for Rule 3523 to allow sufficient time for the SEC to consider whether to approve the amendment to Rule 3523. Specifically, the Board will not apply Rule 3523 to tax services provided on or before December 31, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins.<sup>8/</sup>

(b) Statutory Basis

The statutory basis for the proposed rule change is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Board's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Board did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the

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<sup>6/</sup> See PCAOB Release No. 2007-008 (July 24, 2007). Specifically, the Board stated that it would not apply Rule 3523 to tax services provided on or before April 30, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins.

<sup>7/</sup> See PCAOB Release No. 2008-003 (Apr. 22, 2008).

<sup>8/</sup> This will apply regardless of whether there is an engagement in process on April 30, 2008.

Act) and paragraph (f) of Rule 19b-4 thereunder because of its designation by the PCAOB as “constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.” At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the requirements of Title I of the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/pcaob/shtml>);  
or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number PCAOB 2008-02 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission,  
100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number PCAOB 2008-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/pcaob/shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the

proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number PCAOB-2008-02 and should be submitted on or before **[insert date 21 days from publication in the Federal Register]**.

By the Commission.

Florence E. Harmon  
Acting Secretary